

Michigan IV-D Child Support Manual
Michigan Department of Health and Human Services

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[Exhibit 4.03E1: MDHHS Director’s Letter Delegating Agency Complaint Filing Authority for Child Support](#)

1. Legal Requirements for Agency Complaints

Custodial parties (CPs) who qualify for certain types of public assistance¹ are required to cooperate with the child support program in establishing paternity and/or a child support order as a condition of continued public assistance eligibility.² In certain situations, such as when the CP does not cooperate with child support procedures, the Prosecuting Attorney (PA) may proceed with the IV-D case by filing

¹ Family Independence Program (FIP), Medicaid, Food Assistance Program (FAP), and/or Child Development and Care (CDC)

² Ref: [Section 2.15, “Cooperation/Noncooperation/Good Cause,” of the Michigan IV-D Child Support Manual.](#)

an agency complaint.³ An agency complaint is filed by an attorney representing the Michigan Department of Health and Human Services (MDHHS) on behalf of a minor child.

The state laws and court rules discussed below provide for filing a court action⁴ as an agency complaint and for a complaint to be filed on behalf of a governmental unit.

1.1 The Paternity Act

Under the Paternity Act, the mother, the alleged father, a child, or the department of human services (i.e., MDHHS) may bring a paternity action to the circuit court.⁵

The PA or an attorney employed by the county will initiate and conduct court proceedings when:

- The county MDHHS office determines that the mother or father has physical possession of the child, is eligible for public assistance, and has no resources to employ an attorney;
- MDHHS is the moving party on the complaint; or
- The mother, alleged father or child is receiving IV-D services.

When a child is born out of wedlock and is supported in whole or in part by public assistance, including Medicaid, MDHHS may file a complaint on behalf of the child in the circuit court in the county in which the child resides.⁶ The complaint must be verified by the director of MDHHS, by his/her designated representative, or by the director of the county MDHHS office or a designated representative.⁷

1.2 The Family Support Act

Under the Family Support Act, the person seeking support must verify the complaint.⁸ The Family Support Act gives the authority to the director of MDHHS or his/her designated representative to file in the same manner as the parent and to verify an agency complaint if it is not verified by the CP.⁹ This act also gives the PA the authority to act as the attorney for the petitioner when MDHHS determines that the CP and the dependents are eligible to receive public assistance or medical assistance.¹⁰

³ A complaint is a pleading that initiates a civil action.

⁴ A court action may include a lawsuit, legal process, legal recourse, litigation, matter, and/or proceedings.

⁵ Michigan Compiled Law (MCL) 722.714

⁶ MCL 722.714

⁷ MCL 552.451b

⁸ To verify the complaint is to support the truth of a pleading by affidavit.

⁹ MCL 552.451b

¹⁰ MCL 552.454

1.3 The Status of Minors and Child Support Act

Under the Status of Minors and Child Support Act, when a designated official of either the state or the county MDHHS office brings an action for support on behalf of the minor or a child who has reached 18 years of age, the PA or an attorney employed by the county is authorized to represent the official in initiating and conducting the proceedings to order support.¹¹

1.4 Michigan Court Rules (MCRs)

The MCRs contain provisions for:

- Who must bring the complaint;
- Who may act in a representative capacity on behalf of that person;¹²
- Representation when the state or governmental unit is a party;¹³ and
- The form, captioning, signing and verifying of pleadings that apply to all motions and affidavits.¹⁴

1.5 Authorization for IV-D PAs to File Agency Complaints

On September 26, 2016, MDHHS Director Nick Lyon approved and authorized PAs who perform IV-D work to file agency complaints for child support actions on behalf of children supported, in whole or in part, by public assistance and for whom a IV-D case is open.¹⁵ As of September 26, 2016, PAs who file agency complaints must follow the procedures outlined in this manual section.

2. Situations for Filing an Agency Complaint

When the PA¹⁶ receives a court action referral¹⁷ from the support specialist (SS), the PA must consider filing an agency complaint in the following situations:

2.1 Noncooperation of the CP¹⁸

When the CP receives public assistance on behalf of a child, the CP is required to cooperate with the child support program to establish paternity and/or a court

¹¹ MCL 722.3(2)

¹² MCR 2.201(B)(1)

¹³ MCR 2.201(C)(5)

¹⁴ MCR 2.113 and MCR 2.114

¹⁵ Ref: [Exhibit 4.03E1](#) for a copy of the authorization letter.

¹⁶ In this manual section, "PA" refers to the PA or to IV-D staff in the PA office. It also includes FOC staff who conduct IV-D establishment services in PA/FOC combined offices.

¹⁷ Ref: [Section 2.20, "Court Action Referrals \(CARs\)," of the Michigan IV-D Child Support Manual](#) for more information.

¹⁸ For additional information about cooperation, noncooperation and good cause, reference Section 2.15 of the *Michigan IV-D Child Support Manual*.

order for child support. The PA should file an agency complaint when the CP fails to cooperate with child support requirements but there is enough information available from other resources (e.g., the non-custodial parent [NCP]) to proceed with the IV-D case and the filing of a court action.¹⁹

When a CP is receiving public assistance and is not cooperating with his/her child support requirements, a PA has two options. The PA may determine that:

- The case can proceed by filing an agency complaint; or
- The CP is in noncooperation with the child support program.

When the PA determines there is sufficient information to move forward by filing an agency complaint, the PA must **not** place the CP in noncooperation status.

2.2 Child Is Active Foster Care (Agency Placement)

For MDHHS-supervised foster care (agency placement) IV-D cases, the local county MDHHS foster care office is responsible for the child who is a ward of the state. The PA will always file this type of IV-D court action referral as an agency complaint.²⁰

2.3 A “Good Cause Granted, Continue Action” Determination

For IV-D cases with a “Good Cause Granted, Continue Action” determination, the IV-D agency may continue child support actions without the participation of the CP.²¹ The PA should file an agency complaint when:

- The CP is granted “Good Cause Granted, Continue Action”;
- The PA determines that support establishment or enforcement may proceed without the participation of the CP; and
- There is enough information available from other sources to prepare the complaint.

To determine whether to proceed, the PA may contact the eligibility worker and/or the CP to learn about and understand the family dynamics that led to the good cause determination. Information shared during those discussions should better inform the PA whether or not IV-D activity can continue safely so that the family can benefit from the NCP’s financial support.

¹⁹ Ref: Subsection 2.3, “What Defines Noncooperation?” of Section 2.15 of the *Michigan IV-D Child Support Manual* for more information.

²⁰ Ref: [Section 4.85, “Agency Placement – Establishment,” of the Michigan IV-D Child Support Manual](#) for more information.

²¹ Ref: Section 2.15 of the *Michigan IV-D Child Support Manual* for more information on good cause statuses.

2.4 A Need for Expedited Court Case Proceedings

In some situations, the filing of an agency complaint will expedite the court case proceedings. For example, a party may be located but otherwise not available or willing to participate, or the party is available for a limited period of time only. In these circumstances, the PA may file an agency complaint to move the case forward faster. When the PA processes cases faster, financial assistance is provided to the family more quickly, and the IV-D program is more likely to meet the required federal timeframes for case processing.

Some PA offices may file many or all cases as agency complaints, including cases not in the situations noted above, if the Acts identified in Subsection 1 of this manual section authorize them to do so.

3. Required Information for Filing an Agency Complaint

Court procedures require specific information in order to proceed with a legal case filing to establish a child support order. Adequate information about the CP, the NCP, and the child(ren) must be available to ensure the establishment of appropriate obligations and a legally viable support order.

3.1 General Identifying Information

Information the PA should collect in order to prepare a viable court case and file an agency complaint includes, but is not limited to:

- Judgments or orders in Michigan or other states pertaining to both parties;
- Marriage license(s);
- Social Security numbers for the CP and the NCP;
- Proof of residence;
- Place of conception;
- Acknowledgments of parentage;
- Information about other alleged fathers; and
- Place of birth of the child.

Additional preferred general information includes:

- Photo of the NCP;
- Birth certificate(s) for the child(ren);
- CP's driver's license/state ID; and
- NCP's driver's license/state ID.

3.2 Financial Information

Financial information the PA must gather for IV-D staff to establish a child support order amount using the Michigan Child Support Formula²² includes, but is not limited to:

- NCP wage/employment information;
- NCP medical insurance information;
- NCP income other than earned income (e.g., Supplemental Security Income [SSI], Social Security Retirement, Survivors, and Disability Insurance [RSDI], veterans' benefits);
- CP wage/employment information;
- CP medical insurance information;
- CP income other than earned income (e.g., SSI, RSDI, veterans' benefits);
- Child care costs;
- Number of overnights the child spends with the NCP;²³ and
- Responsibility for any additional dependents.

Additional preferred financial information includes:

- Paternity judgments;
- Prior court cases; and
- Support orders for other children.

3.3 Other Resources for Information

Some of this information may have already been collected and recorded by the SS, and the PA will use that information. The PA may be able to obtain all of the above information from resources other than the CP or the NCP, such as the following:

- An assistance program worker;
- A child welfare worker;
- The Michigan Child Support Enforcement System (MiCSES);²⁴
- Data Warehouse;²⁵
- New hire reporting;
- The paper *IV-D Child Support Services Application/Referral* (DHS-1201) or online *IV-D Child Support Services Application/Referral* (e1201);²⁶

²² For more information, reference the [Michigan Child Support Formula Manual](#) and [Michigan Child Support Formula Manual Supplement](#) from the State Court Administrative Office.

²³ The number of overnights the child spends with the NCP is considered in the Michigan Child Support Formula when determining the amount of child support.

²⁴ Ref: [MiCSES Screen Description: EHIS – Member Employment History](#).

²⁵ Ref: [MiCSES Customer Information Guide – Data Warehouse](#).

²⁶ Ref: [Section 2.05, "Referrals and Applications," of the Michigan IV-D Child Support Manual](#) for more information on the DHS-1201 and e1201.

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- The paper *Child Support Response* form (DHS-842) or *Online Child Support Response* form (e842);
- The *Member Demographics* (DEMO) screen in MiCSES;²⁷ or
- The *Contempt Ability to Pay Screening* (CAPS) screen in MiCSES.²⁸

When filing an agency complaint in cases where paternity is an issue, genetic testing is required on all paternity (DP) complaints.²⁹

4. Court Order Captions for Agency Complaints

4.1 Entering the Caption on the Court Order

When the PA files a court action as an agency complaint, the IV-D program recommends using the following court order caption:

State of Michigan *Ex Rel*³⁰
Plaintiff (list the CP)
Defendant (list the NCP)

Using this caption on the order will prevent the need for IV-D staff to file a motion later for substitution of parties when assistance ends. It will facilitate appropriate order entry in MiCSES and allow proper enforcement procedures to follow.

Note: The above court order caption may not be used when filing foster care cases.³¹

4.2 Entering the Caption in MiCSES

The *Legal Case* (LCSE) screen in MiCSES is used to view and update legal case information. The LCSE screen also provides information regarding each party's role in the case. When a case is filed as an agency complaint, the PA should note it on the LCSE screen in two ways:

- By checking the *Agency Complaint* checkbox; and
- By entering the caption names for the plaintiff and defendant. In the *Legal Case Role Information* section, the *Caption Name* field for the "PL" (plaintiff) role should have "State of Michigan *Ex Rel*" and the CP's name **on the**

²⁷ Ref: [MiCSES Screen Description: DEMO – Member Demographics](#).

²⁸ Ref: [MiCSES Screen Description: CAPS – Contempt Ability to Pay Screening](#).

²⁹ For more information on the "DP" court case-type code, reference Section 2.20 of the *Michigan IV-D Child Support Manual*.

³⁰ "Ex rel" is an abbreviation of the Latin phrase "ex relatione," meaning "by the relation of" or "on behalf of." It is a legal term most commonly used when a government brings a cause of action upon the request of a private party who has some interest in the matter.

³¹ Ref: Section 4.85 of the *Michigan IV-D Child Support Manual*.

same line, and the *Caption Name* field for the “DF” (defendant) role should have the NCP’s name.

5. Court Filing and Signature Requirements

5.1 Verification and Signature

As a designated MDHHS representative, a PA will sign the complaint verifying that all the factual elements required for a valid complaint are true based on his/her knowledge of those facts. The PA will add a note on the *MiCSES Notes Processor* (NOTE) screen indicating how the information in the agency complaint was verified and the date the complaint was signed.

If PA staff are unwilling to sign an agency complaint based on their belief it is inappropriate for PAs to sign, they may request that an SS complete the verification and provide the signature. PA staff will reference Subsection 5.2, “Sending Agency Complaints Using OneSpan Sign,” of this manual section for information on making this request.

5.1.1 Verification

PA or SS staff will verify that all of the factual elements required for a valid agency complaint are true based on their knowledge of those facts. Depending on the reason the PA is filing an agency complaint, one or more of the following must be verified:

- The child(ren) is living with the CP;
- The NCP is living separately and away from the CP;
- The county in which the CP and the child(ren) live;
- The CP and/or child(ren) is supported, in whole or in part, by public assistance;³²
- The NCP has failed to provide financial assistance to the CP;³³ and/or
- The NCP has sufficient financial ability to provide that assistance.

SSs do not have access to financial information to determine whether an NCP has the ability to provide support. If a PA is submitting the complaint for SS signature, the PA must enter a note on the NOTE screen indicating (s)he has determined that the requirements to file a complaint have been met, and there is an ability to pay. SSs will return complaints unsigned when this information is not provided.

³² The PA or SS must verify the receipt of public assistance by using *MiCSES* and *Business Objects*. *MiCSES* maintains assistance history on the *Member Assistance History* (MAHI) screen.

³³ The CP can provide this information during an interview, or the receipt of public assistance can indicate an NCP has failed to provide support. Additionally, some complaints specify that the NCP has failed to provide support pursuant to the Michigan Child Support Formula. This helps establish that the NCP is not obligated to pay support under a court order, and the agency seeks to establish a support order.

Prior to signing an agency complaint, PA or SS staff will verify the information in the complaint is accurate by using information recorded in MiCSES, information collected from the applicant, research performed and recorded by a IV-D worker, and data from Bridges.³⁴

5.1.2 Signature

The PA or SS signature on an agency complaint verifies the validity of the complaint, including the receipt of assistance, the jurisdiction, and the venue based on information found in the IV-D case file, to the best of the signer's knowledge. If a PA will be signing the agency complaint, the signature must be that of the PA doing IV-D work in the county in which the action is brought.

Note: SS staff cannot notarize documents submitted for signature. Signatures are not required to be notarized on complaints.

5.2 Sending Agency Complaints Using OneSpan Sign

The PA will use the electronic signature software OneSpan Sign³⁵ to send an agency complaint to the Office of Child Support (OCS) for an SS to verify and sign. In the OneSpan Sign transaction, the PA will enter the email address MDHHS-OCS-CaseManagementInquiries@michigan.gov to issue the request. The PA must have a OneSpan Sign account to send an agency complaint, but an SS does not need a OneSpan Sign account to electronically receive, sign, and return the agency complaint.

Note: PAs who file all IV-D cases as agency complaints may submit for SS signature only cases meeting the criteria in Subsections 2.1 through 2.4 of this manual section. Agency complaints submitted for SS signature that do not meet those criteria will be returned to the requesting IV-D office without a signature.

The PA will enter a detailed note on the MiCSES NOTE screen indicating an agency complaint was sent to an SS for signature via OneSpan Sign and the date it was sent. The PA will also enter a note in MiCSES indicating the date the signed complaint was returned via OneSpan Sign.

³⁴ Ref: [Job Aid: eSignature Verification Checklist](#) for information on verifying agency complaints.

³⁵ Ref: [IV-D Memorandum 2021-005, Options for Electronic Signatures and Introduction of OneSpan Sign Electronic Signature Software](#) for more information on OneSpan Sign. Also reference [Job Aid: Sending Agency Complaint for Electronic Signature](#). Training resources for OneSpan Sign are located on mi-support at: [Program Library → Index → Document/Forms Generation](#).

Within three business days of receiving a request from the PA through OneSpan Sign, the SS will review and verify the required information, determine if (s)he is able to sign the complaint, and return it to the PA.

- If an SS verifies the information in the agency complaint is valid, the SS will electronically sign the agency complaint. OneSpan Sign will send an email to the PA when the transaction is complete. On the NOTE screen, the SS will note when the complaint was received, how the IV-D information was verified, and the date the signature was provided.
- If an SS determines the information in the agency complaint is **not** valid, the SS will decline the transaction in OneSpan Sign. This will open a pop-up textbox for the SS to note the reason(s) the agency complaint was not signed. OneSpan Sign will send an email to the PA when the transaction is complete. On the NOTE screen, the SS will note when the complaint was received, the reason for not signing the agency complaint, and when the transaction was completed.

5.3 Recommended Court Filing Language

If PA staff will be signing the agency complaint, OCS recommends that PA staff insert the following (or substantially similar) language in the court filing to designate the PA as the agency representative:

Pursuant to Michigan IV-D policy published by the Michigan Department of Health and Human Services and pursuant to Title IV-D Cooperative Reimbursement Program (CRP) contracts, the _____ County Prosecutor's Office, Family Support Division, is a designated representative of the Michigan Department of Health and Human Services for purposes of the establishment of paternity and child support pursuant to MCL 722.711 et seq., and MCL 552.451 et seq.

SUPPORTING REFERENCES:

State
MCL 552.454
MCL 552.451b
MCL 722.3(2)
MCL 722.714
MCR 2.201(B)(1)
MCR 2.201(C)(5)
MCR 2.113
MCR 2.114

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IV-D Memorandum 2016-030